

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	02:03-CR-00350-LRH-LRL
	)	02:05-CV- 01071-LRH
v.	)	
	)	C/A No.: 07-15949
COURTNEY JONES,	)	
	)	<u>ORDER</u>
Defendant.	)	
_____	)	

Presently before the court is Courtney Jones's ("Jones") Motion for Certificate of Appealability (## 1228, 1255). In an Order (# 1278) dated July 16, 2007, the Ninth Circuit Court of Appeals remanded this matter to this court for the limited purpose of granting or denying a certificate of appealability ("COA").

In order to proceed with his appeal, Jones must receive a COA from this court. *See* 28 U.S.C. § 2253(c)(1); *See also Allen v. Ornoski*, 435 F.3d 946, 950-51 (9th Cir. 2006). The standard for the issuance of a certificate of appealability calls for a "substantial showing of the denial of a constitutional right." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). "Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: The petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack*, 529 U.S. at 484; *see also James v. Giles*, 221 F.3d 1074, 1077-79 (9th Cir. 2000). To satisfy this inquiry, Jones must

1 demonstrate that the issues are debatable among jurists of reason, that a court could resolve the  
2 issue in a different manner, or that the question is adequate to deserve encouragement to proceed  
3 further. *See Allen*, 435 F.3d at 951.

4 In this case, Jones has indicated that he is appealing those portions of the court's order  
5 denying his 28 U.S.C. § 2255 motion. The court has carefully reviewed Jones's points and  
6 authorities in support of his Section 2255 motion along with the court's Order (# 1184) dated July  
7 25, 2006, and finds no basis upon which to grant a certificate of appealability. For the reasons  
8 stated in the court's July 25, 2006, Order, the court finds that Jones has failed to make a substantial  
9 showing of the denial of a constitutional right. *See Slack*, 529 U.S. at 484.

10 Jones, in his plea agreement, waived his right to appeal any sentence imposed within the  
11 applicable Sentencing guideline range. Jones received a sentence in accordance with his plea  
12 agreement and within the appropriate range of the sentencing guidelines. Furthermore, Jones has  
13 failed to make any showing that his guilty plea was not voluntary, that there was a violation of Rule  
14 11 of the Federal Rules of Criminal Procedure, that there was an inadequate factual basis for his  
15 plea, or that he was denied the effective assistance of counsel. In short, Jones has failed to  
16 demonstrate that the issues are debatable among jurists of reason, that a court could resolve the  
17 issue in a different manner, or that the question is adequate to deserve encouragement to proceed  
18 further. *See Allen*, 435 F.3d at 951.

19 IT IS THEREFORE ORDERED that Jones's Motion for Certificate of Appealability (##  
20 1228, 1255) is hereby DENIED.

21 The clerk shall forward this order to the Court of Appeals in a supplemental transmittal.

22 IT IS SO ORDERED.

23 DATED this 22<sup>nd</sup> day of August, 2007.



24  
25 LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE